

THE HONOURABLE SRI JUSTICE V. ESWARAI AH

WRIT PETITION No.22389 OF 2007

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DATED: 29-10-2007

BETWEEN

Gangiredla Venkata Satya Kalyani,
W/o. Srinivasa Rao, R/o. D.No.8-10-12,
Ghadi Khana, Railway Station Road,
Vizianagaram and others.

...PETITIONERS

AND

The Tahsildar,
Vizianagaram and another.

...RESPONDENTS

ORDER

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Petitioners submit that they have purchased small extents of lands raging from 30 sq. yards to 400 sq. yards vide various registered sale deeds from the original owners/pattedars and the said house sites are situated at Sy.No.1048 of Vizianagaram Town of Vizianagaram District. They further submit that houses have been constructed in their respective house sites after obtaining necessary permission and they have been enjoying the same as absolute owners and possessors. While so, the first respondent issued notices dated 25.09.2007 under Section 7 of the Andhra Pradesh Land Encroachment Act, 1905

(for short 'the Act') calling upon them to submit explanation by 10.10.2007 as to why action shall not be taken against them for evicting them from the house sites failing which appropriate action will be taken. They further submit that they have submitted their explanations.

2. Petitioners question the said show cause notice itself stating that as

per the judgment of the Supreme Court in **GOVERNMENT OF ANDHRA PRADESH v. THUMMALA KRISHNA RAO**^[1] it is not open for the Government to initiate summary remedy for eviction under the provisions of the Andhra Pradesh Land Encroachment Act where the persons are in occupation of the land for a long time and claiming title to the land as absolute owners.

3. In the instant case, it is the case of the respondents that the said land in Sy.No.1048 is a tank poramboke and therefore, it is a Government land.

4. I am not inclined to express any opinion with regard to the merits of the case as it is for the enquiring authority to consider and dispose the explanations/representations submitted by the petitioners in accordance with law as to whether the said land is a patta land or Government poramboke land.

5. Having regard to the facts and circumstances of the case, the first respondent is directed to consider and dispose the explanations/representations of the petitioners giving reasonable opportunity to them before passing appropriate orders under Section 6 of the Act. However, if any adverse orders are passed against the petitioners, no coercive steps shall be taken to dispossess them for a period of 10 days from the date of service of final orders so as to enable them to file an appeal.

The writ petition is accordingly disposed of. There shall be no order as to costs.

V. ESWARAI AH, J

October 29, 2007
DSK

^[1] (1982) 2 SCC 134